UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,853	08/29/2003	David Duncan	7535.00007	8130

29747 7590 01/10/2007		EXAMINER
GREENBERG TRAURIG		CHANG, SUNRAY
3773 HOWARD HUGHES PARKWAY		
SUITE 500 NORTH	ART UNIT	PAPER NUMBER
LAS VEGAS, NV 89169	2121	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

90A (Rev. 10/06)

	Application No.	Applicant(s)
Office Action Summary	10/651,853	DUNCAN ET AL.
	Examiner	Art Unit
	Sunray Chang	2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>19 October 2006</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>5-17</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>5-17</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in responsive to the paper filed on October 19th, 2006.

Claims 5 – 17 are presented for examination.

Claims 5 – 17 are rejected.

Claims 1 – 4 are cancelled.

Double Patenting

2.   **Claims 5 – 17 are rejected** on the ground of nonstatutory obviousness-type double

patenting as being unpatentable over claims 1 – 3, 4 – 6 and 7 – 9 of U.S. Patent No. 7,068,164.

Although the conflicting claims are not identical, they are not patentably distinct from each other

because, for example, claim 1 of current application is claiming a server, a client, a personal

module, an user interface and a virtual machine, U.S. Patent No. 7,068,164 teaches same

limitations, yet, more detail. [see claims 1, 4 and 7 of this patent, "7,068,164"]

This is a <u>non-provisional</u> obviousness-type double patenting rejection because the

conflicting claims have in fact been patented on June 27th, 2006.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis

for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the

United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by

another filed in the United States before the invention by the applicant for patent, except that an international

application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an

application filed in the United States only if the international application designated the United States and was

published under Article 21(2) of such treaty in the English language.

3. **Claims 5 – 17 are rejected** under 35 U.S.C. 102(e) as being anticipated by Mark J. Nixon

(U.S. Patent No. 6,806,847, and referred to as **Nixon** hereinafter).

Regarding independent claim 5,

- A system for facilities management, [provide enhanced support within a process control

  environment, Col. 1, Lines 11 – 14] comprising:

- a server; [host computer, Col. 4, Lines 42 – 40]

- a client [portable computer system] in communication with the server [host computer], the

  client residing on a first operating system. [Col. 4, Lines 42 – 40]

- a personality module in communication with the server, the personality module residing on a

  second operating system; [field devices, Col. 1, lines 17 – 40; see further Col. 19, lines 13 –

  27]

- a user interface displayed on the client, [Fig. 7 – 14]

- the user interface designed to receive custom logic scripts from a user [manipulate the

  information, Col. 18, Lines 40 – 43]; [see also Col. 18, Lines 13 – 43] and

- a virtual machine [programmed …control diagnostic activities, Col. 16, Lines 46 – 55],

  incorporating a programmable logic controller [the portable computer system … being

  programmed to carry out field device … activities, Col. 16, Lines 46 – 55], residing on the

personality module [module, software routine], [Col. 15, Lines 8 – 20; Col. 18, Line 60 – Col. 19, Line 13]

- the virtual machine [graphical display, Col. 19, Lines 2 – 13; programmed …control diagnostic activities, Col. 16, Lines 46 – 55] designed to execute the custom logic scripts [user input received from the keypad and sends a command, Abstract; Fig. 7 – 14].

Regarding dependent claims 6, 7, 11, 12, 15 and 17,

the portals each include

- a respective set of selected field devices [device, Col. 16, Lines 46 – 55, Col. 18, Lines 36 – 43], inputs [input, Col. 18, Lines 36 – 43], outputs [the information, Col. 18, Lines 36 – 43], and a logic script [user input received from the keypad and sends a command, Abstract; Fig. 7 – 14].

Regarding dependent claim 8,

The system of claim 5, wherein:

- the personality module [module, Col. 19, Lines 2 – 13; software routine, Col. 15, Lines 8 – 20] is coupled to a field device [Fig. 6; Fig. 7 – 14]; [Col. 18, Line 60 – Col. 19, Line 13] and

- the personality module [module, software routine] stores any logic scripts [user input, Col. 18, Lines 40 – 43] related [condition] to interacting with the field device [Fig. 12].

Regarding independent claim 9, and Claim 10

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1/4/07

- A system for facilities management, [provide enhanced support within a process control environment, Col. 1, Lines 11 – 14] comprising:

- an interface residing on a client machine, the interface designed to receive customization information from a user, [a user input from the keypad and sends a command, Abstract]

- the customization information including logic scripts to be used in interacting with field devices; [Fig. 7 – 14, manipulate the information, activated, Col. 18, Lines 40 – 43] and

- a virtual machine [graphical display, Col. 19, Lines 2 – 13; programmed …control diagnostic activities, Col. 16, Lines 46 – 55], incorporating a programmable logic controller [the portable computer system …: being programmed to carry out field device … activities, Col. 16, Lines 46 – 55], for performing the logic scripts [manipulate the information, activated, Col. 18, Lines 40 – 43], the virtual machine residing on a personality module within an operating system relative to the client machine. [graphical display, Col. 19, Lines 2 – 13; programmed …control diagnostic activities, Col. 16, Lines 46 – 55]

Regarding dependent claim 13,

The system of claim 9, further including:

- the personality module [module, Col. 19, Lines 2 – 13; software routine, Col. 15, Lines 8 – 20, see also Col. 15, Lines 21 – 45] in communication [information] with at least one device [Fig. 6; Fig. 7 – 14],

- the personality module [module, software routine] including the virtual machine [graphical display, Col. 19, Lines 2 – 13]; [Col. 15, Lines 8 – 20; Col. 18, Line 60 – Col. 19, Line 12] and

- a display [HUD, Col. 15, Lines 8 – 20] in communication with the personality module

  [module, software routine], wherein

- the interface [graphical display] is on the display [HUD].

Regarding independent claim 14,

- receiving user-defined logic scripts through an interface residing on a client, [user input

  received from the keypad and sends a command, Abstract; Fig. 7 – 14], wherein

- the logic scripts define system access policies [command];

- performing the user-defined logic scripts [manipulate the information, activated, Col. 18,

  Lines 40 – 43] with a virtual machine [graphical display, Col. 19, Lines 2 – 13; programmed

  …control diagnostic activities, Col. 16, Lines 46 – 55] incorporating a programmable logic

  controller [the portable computer system … being programmed to carry out field device …

  activities, Col. 16, Lines 46 – 55] the virtual machine residing on an operating system

  relative to the client. [graphical display, Col. 19, Lines 2 – 13; programmed …control

  diagnostic activities, Col. 16, Lines 46 – 55]

Regarding independent claim 16,

- A machine-readable media for use in an access control system [host computer],

- the machine-readable media including instructions [software routine] which when executed

  [executed] by one or more computers in an access control system [computer] cause the

  access control system to perform the steps of: [Col. 15, Lines 8 – 20]

- receiving user-defined logic scripts through an interface residing on a client, [implementing the functionality], [Col. 15, Lines 8 – 20] wherein

- the logic scripts define system access policies [functionality]; [Col. 15, Lines 8 – 20]

- performing the user-defined logic scripts with a virtual machine [graphical display, Col. 19, Lines 2 – 13; programmed …control diagnostic activities, Col. 16, Lines 46 – 55] incorporating a programmable logic controller [the portable computer system … being programmed to carry out field device … activities, Col. 16, Lines 46 – 55], [carry out field device activities, Col. 16, Lines 46 – 55] the virtual machine residing on an operating system relative to the client machine. [graphical display, Col. 19, Lines 2 – 13; programmed …control diagnostic activities, Col. 16, Lines 46 – 55]

Response to Amendment

Claim Rejections - 35 USC § 102

4.   Applicants argue "Nixon does not expressly or inherently disclose a personal module or a virtual machine residing on an operating system apart from a portable computer system or a host computer" is disagreed with. The "personal module", claimed by the applicants, resides away from the "client" claimed by the applicants. Based on Nixon's disclosure [Col. 19, lines 14 – 27] "The <u>routines</u> described herein may, of course, be <u>implemented in a standard multi-purpose CPU</u> or <u>on specifically designed hardware or firmware as desired</u>. When implemented in software, the software may be <u>stored in any computer readable memory</u> such as on a magnetic disk, an optical disk, or other storage medium, in a RAM or ROM of a computer or processor, etc. Likewise, this <u>software may be delivered to a user or a device</u> (such as the wearable computer) via any known

or desired delivery method including, for example, on a <u>computer readable disk</u> or other

<u>transportable computer storage mechanism</u> or over a communication channel such as a telephone

line, the internet, etc. (which is viewed as being the same as or interchangeable with providing

such software via a transportable storage medium)", the personal module is a routine for setting

up the operation of field devices, which can be stored in any storage devices, even only a PLC,

has an operating system, which is away from the "client".

5.   Based on applicants' amendments, current claim sets can be further rejected by U.S.

Patent No.7,068,164 as a non-provisional obvious-type Double Patenting as listed in current

office action by the examiner .

Conclusion

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE
MONTHS from the mailing date of this action. In the event a first reply is filed within TWO
MONTHS of the mailing date of this final action and the advisory action is not mailed until after
the end of the THREE-MONTH shortened statutory period, then the shortened statutory period
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37
CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,
however, will the statutory period for reply expire later than SIX MONTHS from the mailing
date of this final action.

7.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Sunray Chang who may be reached Monday through Friday,

between 8:00 a.m. and 5:00 p.m. EST. via telephone number (571) 272-3682 or facsimile

transmission (571) 273-3682 or email sunray.chang@uspto.gov.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Anthony Knight can be reached on (571) 272-3687.

        The official facsimile transmission number for the organization where this application or

proceeding is assigned is (571) 273-8300.

Anthony Knight
Supervisory Primary Examiner
Group Art Unit 2121
Technology Center 2100
U.S. Patent and Trademark Office

January 2, 2007